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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEVEN PAUL WIESE

Appeal 2009-002773
Application 10/044,583
Technology Center 2100

Before JOHN A. JEFFERY, LEE E. BARRETT, and THU A. DANG,
Administrative Patent Judges.

JEFFERY, *Administrative Patent Judge.*

DECISION ON APPEAL¹

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1, 2, 4-10, 13-15, 18, 19, 21-25, 27-30, and 32-50.

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

Claims 11 and 12 have been indicated as containing allowable subject matter. Ans. 16. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

STATEMENT OF THE CASE

Appellant invented a computer system for providing a map of real estate values. *See generally* Spec. ¶¶ 2-3. Claim 1 is reproduced below with the key disputed limitations emphasized:

1. A method of displaying on a computer information regarding values associated with a plurality of geographic locations including the steps of:
 - a) receiving a request for information regarding a first geographic area including the plurality of geographic locations, wherein the plurality of geographic locations are street addresses;
 - b) receiving a plurality of values each associated with one of the plurality of geographic locations, wherein said plurality of values are price values;
 - c) *associating each of a plurality of symbols with each of the plurality of geographic locations based upon the associated value of said each of the plurality of geographic locations;*
 - d) displaying a map of the first geographic area in response to said step a) on a display; and
 - e) displaying each of the plurality of symbols on the map at its associated geographic location in response to said step a) on the display.

The Examiner relies on the following as evidence of unpatentability:

| | | |
|-----------|-----------------|--------------------------------------|
| DeLorme | US 5,559,707 | Sept. 24, 1996 |
| Manson | US 5,731,997 | Mar. 24, 1998 |
| Brown | US 5,794,216 | Aug. 11, 1998 |
| Tachibana | US 6,219,053 B1 | Apr. 17, 2001 |
| Jones | US 6,748,318 B1 | June 18, 2004 (filed May 6, 1997) |

THE REJECTIONS

1. The Examiner rejected claims 1, 2, 4-7, 13-15, 19, 21-23, and 35-38 under 35 U.S.C. § 103(a) as unpatentable over Brown, Manson, and Jones. Ans. 4-7.²

2. The Examiner rejected claim 18 under 35 U.S.C. § 103(a) as unpatentable over Brown, Manson, Jones, and DeLorme. Ans. 7.

3. The Examiner rejected claims 8-10, 24, 25, 27-30, 32-34, 39, and 40 under 35 U.S.C. § 103(a) as unpatentable over Brown, Manson, Jones, and Tachibana. Ans. 7-13.

4. The Examiner rejected claims 41-50 under 35 U.S.C. § 103(a) as unpatentable over Brown, Manson, and Tachibana. Ans. 14-16.

CLAIM GROUPING

As for the § 103 rejection based on Brown, Manson, and Jones, Appellant argues the following claim groupings separately: (1) claims 1, 2,

² Throughout this opinion, we refer to (1) the Appeal Brief filed December 13, 2007; (2) the Examiner's Answer mailed March 20, 2008; and (3) the Reply Brief filed May 20, 2008.

4, 5, 13, 15, 19, 21, 22, and 35-38³; (2) claims 6, 7, and 23; and (3) claim 14. *See* App. Br. 11-16. Accordingly, we select claim 1 as representative of group (1). *See* 37 C.F.R. § 41.37(c)(1)(vii).

As for the remaining § 103 rejections, Appellant argues the following claim groupings separately: (1) claim 18; (2) claims 8, 9, 25, 28-30, 32-34, 39, and 40; (3) claim 10; (4) claims 24 and 27; and (5) claims 41-50. *See* App. Br. 16-19.

THE OBVIOUSNESS REJECTION OVER BROWN, MANSON, AND JONES

Claims 1, 2, 4, 5, 13, 15, 19, 21, 22, and 35-38

Regarding representative independent claim 1, the Examiner finds that Brown teaches steps (a), (b), and (d). Ans. 4-5. Manson has been cited to teach step (c) and (e) and Jones has been cited to teach that the geographical locations are street addresses. Ans. 5-6.

Appellant argues that Brown discloses displaying a list and not a map in response to the requested information. App. Br. 13-14. Specifically, Appellant contends that the map only helps in obtaining the requested information regarding the geographical area and is not in response to the requested information. App. Br. 13; Reply Br. 2-3. Appellant also asserts Manson does not provide a motivation to combine with Brown and form a map because adding such a map does not further Brown's purpose of and teaches away from displaying geographical information in a list to retrieve the home's details. App. Br. 14-15; Reply Br. 3. Lastly, Appellant argues

³ Claims 2, 4, 5, 13, 15, 21, 22, and 35-38 are not separately argued and independent claim 19 is grouped with independent claim 1. *See* App. Br. 11-16.

that Manson does not teach associating symbols with a geographical location based on price values. App. Br. 15.

The issues before us, then, are as follows:

ISSUES

(1) Under § 103, has the Examiner erred in rejecting claim 1 by finding that Brown, Manson, and Jones collectively would have taught or suggested:

(a) displaying a map of a first geographic area responsive to receiving a request for information regarding the first geographical area including the geographic locations that are street addresses, and

(b) associating symbols with the geographical locations based upon price values associated with geographical locations?

(2) Under § 103, did the Examiner articulate a reason with some rational underpinning to support the legal conclusion of obviousness for claim 1 based collectively on Brown, Manson, and Jones?

FINDINGS OF FACT (FF)

1. Brown discloses a program (e.g., Pacific Avenue) that queries a database and allows a user to search a region for a home. The search begins when the user selects the begin-new-search icon 200. The user narrows the search by selecting desired subregions (e.g., 4, 8, 9) within a geographical region 204 and a price range. Figure 13 maps the Louisville area 204. Brown, col. 7, ll. 42-56; Figs. 12-13.

2. Brown discloses the results of the search in a list 212 including street addresses and corresponding prices for homes. Selecting a home in

list 212 reveals thumbnail image 214. Brown, col. 7, l. 56 – col. 8, l. 2; Fig. 14.

3. Jones teaches a technique for displaying tabled information as a box and text on a map. For example, the box contains a street address (e.g., 1010 Oak Lane) and latitude/longitude (e.g., 55T 5555555, 5555555). Jones, col. 8, ll. 20-32, col. 25, ll. 38-43; Figs. 26-28.

ANALYSIS

Based on the record before us, we find no error in the Examiner's obviousness rejection of representative claim 1 which calls for, in pertinent part, displaying a map of a first geographic area in response to receiving a request for information regarding the first geographic area. The Examiner states that this limitation is met by Brown's displaying the map shown in Figure 13. Ans. 4-5. We agree. Brown discloses in Figure 12 a program (e.g., Pacific Avenue) that allows a user to search for a home by selecting the begin-new-search icon 200. FF 1. Also, Brown's Figure 13 displays a map of a geographical area 204 (e.g., the Louisville area) upon selecting a new search. *Id.* Brown thus discloses at least one embodiment that displays a map of a first geographic area (e.g., Louisville area) responsive to receiving a request for information regarding the geographic area (e.g., a new home search request of the Louisville area) as recited in claim 1.

Additionally, as Brown teaches searching homes that have street addresses in a database (FF 2) by selecting the begin-new-search icon 200, we find that the geographic area searched contains street addresses. Thus, contrary to Examiner's statement (Ans. 5), when the user request a new search (FF 1), the user also requests information *related to* or regarding the

first geographic area that includes street addresses. We are therefore unpersuaded by Appellant's assertions that the map in Figure 13 only helps to obtain the requested information and is not in response to requested information regarding a first geographic area with street addresses as required by claim 1.

Appellant also asserts that the prior art fails to teach associating symbols with the geographic locations based upon price values as required in claim 1. App. Br. 13-15. While Brown associates symbols with sub-regions of Louisville area (e.g., 4, 8, 9) (FF 1) (i.e., geographic locations), these symbols are not based upon the associated price values of the geographic locations (e.g., street address). On the other hand, Brown associates geographic locations (e.g., street addresses) based upon the associated price values (FF 2) in a list, but does not associate symbols with each geographic location and display the symbols on a map at its associated geographic location as recited in claim 1.

Jones, however, teaches a known technique for displaying tabled information as symbols (box with text) on a map. For example, the box contains a street address (e.g., 1010 Oak Lane) and latitude/longitude (e.g., 55T 5555555, 5555555) as shown in Figure 28. FF 3. Jones therefore at least suggests displaying information located in a table—including street addresses—graphically or visually as a map. *Id.* Moreover, each of Jones' symbols (e.g., box with text) is associated with geographic location based upon the table's information (e.g., text for street address).

Combining Jones' teaching with Brown predictably yields a process that associates symbols with geographic street address locations and maps these symbols (e.g., a box with text) containing the information in Brown's

list (e.g., street addresses and prices) ultimately in response to request for information regarding the geographic location. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). In fact, employing an ordinarily skilled artisan's common sense, such a combination would have been obvious because presenting information in this manner is easier to read and more visually appealing than a list. *See Leapfrog Enter, Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1161 (Fed. Cir. 2007). We therefore find that Brown and Jones provide a reason to display Brown's list containing addresses and prices visually as symbols on a map at the addresses in response to receiving a request for information as recited in claim 1. *See KSR*, 550 U.S. at 418.

Lastly, step (c) of claim 1 recites associating each symbol with a geographic location *based upon* the associated price values. As the combination of Brown and Jones would choose a symbol (e.g., box and text) that includes both the home's address and price, the symbol is based at least in part upon the associated price (e.g., text of the price) as recited.

For the foregoing reasons, Appellant has not shown error in the rejection of independent claim 1 based on Brown, Manson, and Jones. We therefore sustain the rejection of claim 1, and claims 2, 4, 5, 13, 15, 19, 21, 22, and 35-38 which fall with claim 1.

Claims 6, 7, and 23

Regarding claim 6, the Examiner finds Manson's Figure 4 teaches the symbols each include different shapes and colors. Ans. 4. Appellant contends that Manson teaches using the same icon and color for a display feature, such that each house in Brown would be the same color and shape rather than a different shape as required by in claim 6. App. Br. 15.

The issue before us, then, is as follows:

ISSUE

(2) Under § 103, has the Examiner erred in rejecting claim 6 by finding that Brown, Manson, and Jones collectively would have taught or suggested the symbols each include different shapes.

FINDINGS OF FACT (FF)

4. Manson teaches symbols represent geographic feature, such as a tree, pole, or pond (e.g., a blue closed line area). Manson, col. 8, ll. 43-47; Figs. 2-4.

ANALYSIS

Based on the record before us, we find the Examiner erred in rejecting claim 6 based on Brown, Manson, and Jones. As discussed above, the combination of Brown and Jones teach that each geographic location has a symbol. While Jones uses a symbol (e.g., a box with text) to represent the street address, the symbol or box has the same shape regardless of the street. Moreover, while Manson teaches using a symbol for a given geographic feature, such as a tree, pole, or pond (FF 4), we agree with Appellant (*see* App. Br. 15) that Manson's teaching relied upon by the Examiner (Ans. 6), at best, suggests the symbol for a feature (e.g., a geographic location that is a street address) will have the same shape. The combination of references, as presented by the Examiner, therefore fails to teach, based upon an associated value, the symbols for each geographic location have a different shape as recited in claim 6.

For the foregoing reasons, Appellant has shown error in the rejection of claim 6 based on Brown, Manson, and Jones. Because claim 7 depends from claim 6, we likewise will not sustain claim 7. Claim 23 depends from independent claim 19, but is commensurate in scope with claim 6. We therefore will not sustain the rejection of claim 23 for similar reasons.

Claim 14

Regarding claim 14, the Examiner finds Brown also discloses displaying an advertisement based upon step (a). Ans. 6. Appellant contends that Brown fails to display an advertisement, and that the logos in Figures 12 through 14 are not advertisements based upon geographic request since they are always the same. App. Br. 15.

The issue before us, then, is as follows:

ISSUE

(3) Under § 103, has the Examiner erred in rejecting claim 14 by finding that Brown, Manson, and Jones collectively would have taught or suggested displaying an advertisement based upon receiving a request for information regarding a first geographic area including geographic locations?

ANALYSIS

Based on the record before us, we find the Examiner has not erred in rejecting claim 14 based on Brown, Manson, and Jones. First, Appellant has not defined an advertisement. *See generally* Spec. As such, we will construe the phrase with its broadest reasonable construction in light of the

disclosure to include logos and marketing information. *See In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). Second, when the user opts to perform a new search that relates to a geographic location (e.g., Louisville area) as explained in connection with claim 1, the program showcases or “advertises” homes for sale in the Louisville area. *See* FF 1. We therefore find that Brown teaches the step of displaying an advertisement (e.g., homes for sale) based upon receiving a request as recited in claim 14.

For the foregoing reasons, Appellant has not shown error in the rejection of claim 14 based on Brown, Manson, and Jones.

THE OBVIOUSNESS REJECTION OVER BROWN, MANSON, JONES, AND DELORME

Regarding claim 18, the Examiner finds that Brown, Manson, and Jones do not teach the limitation of claim 18 and relies on DeLorme to cure the deficiency. Ans. 7. Appellant argues that Brown’s purpose is to display details about a home and thus there is no reason to associate the homes with latitude and longitude. App. Br. 16.

The issue before us, then, is as follows:

ISSUE

(4) Under § 103, has the Examiner erred in rejecting claim 18 by finding that Brown, Manson, Jones, and DeLorme collectively would have taught or suggested associating each value with a latitude and longitude and display each symbol on the map based upon the associated longitude and latitude?

ANALYSIS

Based on the record before us, we find no error in the Examiner's obviousness rejection of claim 18. As stated above regarding claim 1, Jones teaches a known technique for displaying tabled information as symbols (box with text) on a map, including the street addresses (e.g., 1010 Oak Lane) and latitude/longitude (55T 5555555, 5555555). FF 3. Additionally, combining Jones' teaching with Brown (FF 1-2) predictably yields associating symbols with geographic street address locations and presenting a map that has symbols (e.g., a box with text) with the information contained in Brown's list (e.g., street addresses, prices). *See KSR*, 550 U.S. at 416. Jones further teaches including latitude and longitude information with the symbols (e.g., text within box). FF 3. Jones therefore teaches and suggests associating various information, including street address, home value, and latitude/longitude, and displaying the information as a symbol (box with text). Moreover, employing the common sense of an ordinarily skilled artisan, such a combination would have been obvious because associating latitude and longitude with a street address assists in pinpointing the information accurately on a map. *See Leapfrog*, 485 F.3d at 1161.

We therefore find that DeLorme is cumulative.

For the foregoing reasons, Appellant has not shown error in the rejection of claim 18.

THE OBVIOUSNESS REJECTION OVER BROWN, MANSON,
JONES AND TACHIBANA

Claims 8-10, 25, 27-30, 32-34, 39, and 40

Claim 8 recites associating symbols having a first visually identifying characteristic indicating a range of values and a second visually identifying characteristic indicating a subrange within the range. The Examiner finds that Brown, Manson, and Jones do not teach the associating limitations of claim 8 and relies on Tachibana to cure the deficiency. Ans. 7-9. Appellant argues that there is no reason to combine Brown with Tachibana because Brown is concerned with the home's details and not visually identifying characteristics. App. Br. 16-17. Appellant additionally argues that: (1) Brown, Manson, and Tachibana do not disclose ranges and subranges; (2) Tachibana has no relationship between a symbol and value ranges; and (3) Tachibana is nonanalogous art. App. Br. 17-18; Reply Br. 5-6.

The issue before us, then, is as follows:

ISSUE

(5) Under § 103, has the Examiner erred in rejecting claim 8 by finding that Brown, Manson, Jones, and Tachibana collectively would have taught or suggested: (a) associating symbols with different range of values, wherein each symbol has a first visually identifying characteristic indicating a range of values and second visually identifying characteristic indicating a subrange within the associated range, and (b) associating the symbols based upon steps (c) and (f) wherein the value of the geographic location corresponds to the range and subrange indicated by the symbol associated with the geographic location?

FINDINGS OF FACT

5. Tachibana teaches displaying a network of nodes (e.g., host, hubs, routers) as icons in a map. The node of interest is the root node located at the center of the map; connections between nodes are lines; and nodes connected to the root node are at the second hierarchical level and so on. Tachibana, Title, Abstract, col. 4, ll. 14-66.

6. Tachibana states nodes are different shapes and colors depending on their hierarchical level. Tachibana, col. 17, ll. 62-67; Fig. 22.

ANALYSIS

Based on the record before us, we find the Examiner erred in rejecting claim 8 based on Brown, Manson, Jones, and Tachibana. The Examiner admits that Brown, Manson, and Jones do not teach associating symbols with different range of values, such that the symbol has a first identifying characteristic that indicates one of a range of values and a second visually identifying characteristic that indicates a subrange within the range. *See* Ans. 8. Our discussion therefore focuses on Tachibana.

To be sure, Figure 22 maps the nodes within a hierarchy having a distinct shape and color. FF 6. However, we agree with Appellant that Tachibana's first hierarchical level is not a range of values and a second hierarchical level is not a subrange. *See* FF 5. At best, Tachibana teaches mapping nodes based on a root node and how the root node connects to other nodes within a computer network. *See* FF 5. Thus, we fail to find that Tachibana teaches or suggests associating a symbol with a different range of values and each symbol has a first identifying characteristic indicating a

range of values and a second identifying characteristic indicating a subrange within its associated range as recited in claim 8. Additionally, combining Tachibana's teaching with Brown, Manson, and Jones does not teach or suggest the value of each geographic location corresponds to the range and subrange indicated by the symbol as recited in claim 8.

Claims 9 and 10 depend from claim 8 and we likewise will not sustain the rejection of these claims. Because independent claims 25 and 28 are commensurate in scope with claim 8, these claims will also not be sustained. As claims 27, 29, 30, 32-34, 39, and 40 depend from claims 25 and 28, we reverse the rejection of these claims for similar reasons.

For the foregoing reasons, Appellant has shown error in the obviousness rejection of claims 8-10, 25, 27-30, 32-34, 39, and 40.

Claim 24

Claim 24 depends from claim 19 and recites associating colors with one range of values, and each symbol includes a different color and is associated with locations based upon the associated color and values. Appellant separately argues claim 24 but asserts the same argument presented for claim 8 — namely that Tachibana does not disclose a range of values, but only hierarchical levels. App. Br. 18.

As discussed above in connection with claim 8, Tachibana fails to teach or suggest associating a symbol with a different range of values. Also, Tachibana associates a hierarchical level with a color, but not range. *See* FF 6. Similarly, because claim 24 recites each symbol includes a different color associated with a range of values, and Tachibana fails to teach or suggest associating the symbol with range of values, Tachibana also does not teach

that each symbol includes a different color associated with a range of values. Although Manson teaches that a feature or symbol can be a different color (FF 4), the symbol is not associated with a plurality of locations based upon the associated colors and values as recited in claim 24.

For the foregoing reasons, we will not sustain the rejection of claim 24.

THE OBVIOUSNESS REJECTION OVER BROWN, MANSON,
AND TACHIBANA

Independent claims 41 and 45 are commensurate with scope with claim 8. That is, each claim recites associating each symbol with a geographic location based upon associated values of the geographic location, each symbol having a first visually identifying characteristic indicating one range of values and a second visually identifying characteristic indicating a subrange with the associated range, the value of each geographic location corresponding to the range and subrange indicated by the symbol associated with each geographic location. For the reasons discussed above in connection with claim 8, we find that the Examiner has erred in rejecting claims 41 and 45 based upon Brown, Manson, and Tachibana.

Claims 42-44 and 49 depend from claim 41 and claims 46-48 and 50 depend from claim 45. We therefore will not sustain the rejection of these claims for similar reasons.

For the foregoing reasons, Appellant has shown error in the obviousness rejection of claims 41-50.

CONCLUSION

Under § 103, the Examiner did not err in rejecting claims 1, 2, 4, 5, 13-15, 18, 19, 21, 22, and 35-38, but erred in rejecting claims 6-10, 23-25, 27-30, 32-34, and 39-50.

ORDER

The Examiner's decision rejecting claims 1, 2, 4-10, 13-15, 18, 19, 21-25, 27-30, and 32-50 is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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